IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH

AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SECOND DAY OF JULY

TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 11112 of 2004

Between:

M.Sardar Khan S/o M.M.Khan, aged 59 years,

Driver (E-48714), APSRTC, Hyderabad I Depot,

Rangareddy Region, Imlibun, Hyderabad.

….. PETITIONER

AND

1 The Regional Manager, APSRTC, Rangareddy Region MGBS, Imlibun,

Hyderabad

2 The Depot Manager, APSRTC, Hyderabad I Depot (RR Region)

Gowliguda, Hyderabad

….. RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to

issue a writ or order or direction more particularly one in the nature of Writ of Mandamus declaring that the action of the respondents in cancelling the 12 years Special Grade which was effected on 1/05/1989 modifying the same with effect from 1/05/1991 and recovering Rs.23,000/- from the petitioner's gratuity amount is bad, arbitrary, illegal, unjust and unreasonable, and violative of principles of natural justice and contrary to the circulars and judgments of this Hon'ble Court by setting aside the office order No.P6/741(1)/2003-RR, dated 14/08/2003 of R1 herein and consequently direct the respondents to pay the recovered amount to the petitioner with interest.

Counsel for the Petitioner : Mr. P. VENKATESWARA RAO, Advocate

Counsel for the Respondent Nos.1 & 2 : Mr.K.HARINATH(SC FOR APSRTC)

The Court at the admission stage made the following :

ORDER:

The grievance of the petitioner is that the respondents cancelled the special grade effected to the petitioner on 1.5.1989, by modification of the same to come into force with effect from 1.5.1991 and recovered Rs.23,000/- from his gratuity amount, which is illegal and arbitrary.

The impugned order was passed on 14.08.2003 stating that on verification of personal records of the petitioner, it was found that he reported for duty on 23.1.1979 on loss of seniority. Therefore the special grade, which was sanctioned to the petitioner with effect from 1.5.1989, is cancelled and he is eligible to be placed on special grade with effect from 1.5.1991.

The matter has to be decided by the respondent-Corporation, as to from which date, the petitioner is entitled for special grade pay. The grievance of the writ petitioner is that any employee of the Corporation, who continued to be in service for 12 years, is eligible for getting special grade and that the period of 12 years has to be reckoned irrespective of working in regions or divisions. The entire service in the Corporation should be taken into consideration for counting 12 years of service for the purpose of giving special grade. This aspect has not been considered by the respondent-

Corporation in the impugned proceedings.

In the facts and circumstances of the case and in pursuance of the orders of the Division Bench of this Court in W.A. No.1301 of 2000, dated 29.10.2002, the matter can be remitted to the respondent-Corporation with a direction to the respondents to consider the case of the petitioner. Therefore, the petitioner is directed to file a representation before the respondent-Corporation, within a period of two weeks from the date of receipt of a copy of this order. On such representation, the respondent-Corporation shall dispose of the same within four weeks from the date of filing of the said representation by the petitioner, in the light of the observations made in W.A. No.1301 of 2000 dated 29.10.2002.

Accordingly, with the above directions, the writ petition is disposed of. In the circumstances of the case, no costs.

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K.C. BHANU, J

02nd July, 2004.

Note:

Issue CC in

Three days.

(B/o)

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To

1 The Regional Manager, APSRTC, Rangareddy Region MGBS, Imlibun,

Hyderabad

2 The Depot Manager, APSRTC, Hyderabad I Depot (RR Region)

Gowliguda, Hyderabad

3 Two CD copies.